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MONTANA LEGISLATIVE HISTORY

Chapter 288 ~~19~~ 2001

Bill H _____ S 241 Original bill & history ✓ C

H. Committee on Local Gov't		S. Committee on Local Gov't	
Hearing Date(s) 3/22	✓ C	Hearing Date(s) 3/6	✓ C
3/27	✓ C	3/8	✓ C
	C	✓	C
	C		C
Date Out	C		

Did this bill originate in an interim committee? ____Yes ✓ No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

Senate BILL NO. 241

INTRODUCED BY Wells Stonington Younkin Stiffler Clancy
(Primary Sponsor)
R.J. Dale Allen Walters MANZONRIED. Haynes Hamilton

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE COMPOSITION OF THE PLANNING AND ZONING COMMISSION; AUTHORIZING COUNTIES TO ENFORCE THE REGULATIONS AND REQUIREMENTS ADOPTED FOR PLANNING AND ZONING DISTRICTS CREATED UPON CITIZEN PETITION; AND AMENDING SECTIONS 76-2-101 AND 76-2-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-2-101, MCA, is amended to read:

"76-2-101. Planning and zoning commission and district. (1) Subject to the provisions of subsection (5), whenever the public interest or convenience may require and upon petition of 60% of the affected freeholders ~~affected thereby~~, the board of county commissioners ~~is hereby authorized and empowered to order and~~ may create a planning and zoning district and ~~to~~ appoint a planning and zoning commission consisting of ~~five~~ seven members.

(2) ~~No such planning or zoning district may~~ A planning and zoning district may not be created in an area ~~which~~ that has been zoned by an incorporated city pursuant to 76-2-310 and 76-2-311.

(3) For the purposes of this part, the word "district" ~~shall mean~~ means any area that consists of not less than 40 acres.

(4) Except as provided in subsection (5), an action challenging the creation of a planning and zoning district must ~~be commenced~~ begin within 5 years after the date of the order by the board of county commissioners creating the district.

(5) If freeholders representing 50% of the titled property ownership in the district protest the establishment of the district within 30 days of its creation, the board of county commissioners may not create the district. An area included in a district protested under this subsection may not be included in a zoning district petition under this section for a period of 1 year."

Section 2. Section 76-2-102, MCA, is amended to read:

"76-2-102. Organization and operation of commission. (1) The planning and zoning commission

INTRODUCED BILL
SB 241

consists of the three county commissioners, the county surveyor, two residents of the planning and zoning district, and a county official appointed by the county commissioners. Members of the commission sha serve without compensation other than reimbursement for authorized expenses and must be residents o the county in which they serve.

(2) The commission may appoint necessary employees and fix their compensation with th approval of the board of county commissioners, select a presiding officer to serve for 1 year, appoint a secretary to keep permanent and complete records of its proceedings, and adopt rules governing th transaction of its business.

(3) Subject to 15-10-420, the finances necessary for the transaction of the planning and zoning commission's business and to pay the expenses of the employees and justified expenses of th commission's members ~~of the board~~ must be paid from a levy of not to exceed 1 mill on the taxabl valuation of the real property within the district."

NEW SECTION. **Section 3. Enforcement of zoning provisions.** (1) If any building or structure i erected, constructed, reconstructed, altered, repaired, converted, or maintained or if any building structure, or land is used in violation of this part or of any resolution adopted under this part, the county in addition to other remedies, may take any appropriate action or begin proceedings to:

(a) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion maintenance, or use;

(b) restrain, correct, or abate a violation;

(c) prevent the occupancy of a building, structure, or land; or

(d) prevent any illegal act, conduct, business, or use in or near the premises.

(2) The board of county commissioners may appoint enforcing officers to supervise and enforce the provisions of the zoning resolutions.

NEW SECTION. **Section 4. Codification instruction.** [Section 3] is intended to be codified as an integral part of Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to [section 3].

NEW SECTION. **Section 5. Transition.** On or before October 1, 2002, the county board o

commissioners shall appoint new members to the planning and zoning commission, as provided in [sections 1 and 2], for each planning and zoning district that exists as of [the effective date of this act].

- END -

AN ACT CHANGING THE COMPOSITION OF THE PLANNING AND ZONING COMMISSION; AUTHORIZING COUNTIES TO ENFORCE THE REGULATIONS AND REQUIREMENTS ADOPTED FOR PLANNING AND ZONING DISTRICTS CREATED UPON CITIZEN PETITION; AND AMENDING SECTIONS 76-2-101 AND 76-2-102, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-2-101, MCA, is amended to read:

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Section 2. Section 76-2-102, MCA, is amended to read:

"**76-2-102. Organization and operation of commission.** (1) The planning and zoning commissi consists of the three county commissioners, the county surveyor, two citizen members, each of whc resides in a different planning and zoning district, and a county official appointed by the coun commissioners. The citizen members must be appointed by the board of county commissioners to 2-ye staggered terms, with one member initially appointed to a 2-year term and the remaining member initia appointed to a 1-year term. Members of the commission shall serve without compensation other thi reimbursement for authorized expenses and must be residents of the county in which they serve.

(2) The commission may appoint necessary employees and fix their compensation with th approval of the board of county commissioners, select a presiding officer to serve for 1 year, appoint secretary to keep permanent and complete records of its proceedings, and adopt rules governing th transaction of its business.

(3) Subject to 15-10-420, the finances necessary for the transaction of the planning and zonir commission's business and to pay the expenses of the employees and justified expenses of th commission's members ~~of the board~~ must be paid from a levy of not to exceed 1 mill on the taxab valuation of the real property within the district."

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(1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversior maintenance, or use;

(2) restrain, correct, or abate a violation;

(3) prevent the occupancy of a building, structure, or land; or

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Section 4. Codification instruction. [Section 3] is intended to be codified as an integral part o Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to [section 3].

Section 5. Transition. On or before October 1, 2002, the county board of commissioners shall appoint new members to the planning and zoning commission, as provided in [sections 1 and 2], for each planning and zoning district that exists as of [the effective date of this act].

- END -

DISPUTE RESOLUTION IN CHILD ABUSE AND NEGLECT CASES; REQUIRING A SHOW CAUSE HEARING TO BE HELD WITHIN 10 DAYS, EXCLUDING WEEKENDS AND HOLIDAYS, OF AN INITIAL PETITION; REQUIRING AN ADJUDICATION TO BE MADE WITHIN 90 DAYS OF A SHOW CAUSE HEARING; REQUIRING A DISPOSITIONAL HEARING TO BE HELD WITHIN 20 DAYS AFTER AN ADJUDICATORY ORDER; AMENDING SECTIONS 41-3-101, 41-3-205, 41-3-301, 41-3-401, 41-3-402, 41-3-403, 41-3-404, 41-3-406, 41-3-412, 41-3-420, AND 41-3-421, MCA; AND REPEALING SECTIONS 41-3-413 AND 41-3-1014, MCA 1344

282 *(Senate Bill No. 197; Tester)* REQUIRING A PERSON WHO WILDCRAFTS TO OBTAIN WRITTEN PERMISSION OR A PERMIT PRIOR TO WILDCRAFTING; PROVIDING EXEMPTIONS TO THE REQUIREMENT OF WRITTEN PERMISSION OR A PERMIT; DESCRIBING THE REQUIREMENTS FOR A BUYER OF WILDCRAFTED PLANT MATERIAL; PROVIDING A RESTRICTION ON THE LIABILITY OF A LANDOWNER THAT ALLOWS WILDCRAFTING ON THE LANDOWNER'S PROPERTY; ESTABLISHING VIOLATIONS; PROVIDING PENALTIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1367

283 *(Senate Bill No. 203; Cole)* REPLACING THE LIMIT ON THE NUMBER OF AXLES ALLOWED ON A COMMERCIAL MOTOR VEHICLE WITH THE FEDERAL GROSS VEHICLE WEIGHT LIMITS; AND AMENDING SECTION 61-10-107, MCA 1371

284 *(Senate Bill No. 204; Cobb)* CLARIFYING THAT A COURT SENTENCING A CRIMINAL OFFENDER MUST SPECIFY THE TOTAL AMOUNT OF RESTITUTION TO BE PAID TO THE VICTIM; PROVIDING THAT THE TOTAL AMOUNT ORDERED TO BE PAID MAY BE COLLECTED BY THE VICTIM AT ANY TIME, INCLUDING AFTER STATE SUPERVISION OF THE OFFENDER ENDS, USING ANY METHOD ALLOWED BY LAW FOR THE COLLECTION OF A CIVIL JUDGMENT; AMENDING SECTIONS 46-18-244 AND 46-18-249, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE 1372

285 *(Senate Bill No. 210; Waterman)* ALLOWING EMPLOYEES OF COUNTY HOSPITALS AND REST HOMES IN FIRST- AND SECOND-CLASS COUNTIES TO HAVE THE OPTION TO NOT JOIN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AND AMENDING SECTION 19-3-412, MCA. 1374

286 *(Senate Bill No. 221; Johnson)* ELIMINATING THE REQUIREMENT FOR A CERTIFICATE OF NEED FOR CERTAIN HEALTH CARE FACILITIES; AMENDING SECTION 50-5-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1375

287 *(Senate Bill No. 229; Cocchiarella)* PROVIDING THAT IT IS NOT MARITAL STATUS DISCRIMINATION FOR AN EMPLOYER TO EMPLOY OR OFFER TO EMPLOY A PERSON WHO IS QUALIFIED FOR THE POSITION AND TO ALSO EMPLOY OR OFFER TO EMPLOY THE PERSON'S SPOUSE; AND AMENDING SECTION 49-2-303, MCA 1377

288 *(Senate Bill No. 241; Wells)* CHANGING THE COMPOSITION OF THE PLANNING AND ZONING COMMISSION; AUTHORIZING COUNTIES TO ENFORCE THE REGULATIONS AND REQUIREMENTS ADOPTED FOR PLANNING AND ZONING DISTRICTS CREATED UPON CITIZEN PETITION; AND AMENDING SECTIONS 76-2-101 AND 76-2-102, MCA 1378

SB 240 Introduced by McNutt, et al. *LC1177 Drafter: Martin*

Remove Termination for Alternative Oil Recovery Rates

12/05	Fiscal Note Needed		
1/12	Introduced		
1/13	First Reading		
1/13	Referred to Taxation		
1/13	Fiscal Note Requested		
1/19	Fiscal Note Received		
1/19	Fiscal Note Signed		
1/20	Fiscal Note Printed		
1/22	Hearing		
1/26	Committee Executive Action--Bill Passed as Amended	9	0
1/26	Committee Report--Bill Passed as Amended		
1/29	2nd Reading Passed on Voice Vote	47	1
1/30	3rd Reading Passed	47	1
	Transmitted to House		
2/06	Referred to Taxation		
2/13	Hearing		
3/27	Committee Executive Action--Bill Concurred	19	1
3/27	Committee Report--Bill Concurred		
4/09	2nd Reading Concurred	85	14
4/10	3rd Reading Concurred	87	13
	Returned to Senate		
4/11	Sent to Enrolling		
4/11	Returned from Enrolling		
4/13	Signed by President		
4/17	Signed by Speaker		
4/19	Transmitted to Governor		
4/28	Signed by Governor		
4/28	Chapter Number Assigned		
	Chapter Number 403		
	Effective Date: 4/28/2001 - All Sections		

SB 241 Introduced by Wells, et al. *LC0388 Drafter: Vandenbosch*

Revise Zoning District Laws

1/12	Introduced		
1/13	First Reading		
1/13	Referred to Local Government		
1/13	Fiscal Note Requested		
1/18	Fiscal Note Received		
1/18	Fiscal Note Signed		
1/19	Fiscal Note Printed		
2/06	Hearing		
2/09	Committee Executive Action--Bill Passed as Amended	11	0
2/09	Committee Report--Bill Passed as Amended		
2/13	2nd Reading Passed on Voice Vote	50	0
2/14	3rd Reading Passed	50	0
	Transmitted to House		
3/01	Referred to Local Government		
3/22	Hearing		
3/28	Committee Executive Action--Bill Concurred as Amended	18	0
3/28	Committee Report--Bill Concurred as Amended		
3/30	2nd Reading Concurred	99	0
3/31	3rd Reading Concurred	97	3

	Returned to Senate with Amendments		
4/03	2nd Reading House Amendments Concurred on Voice Vote	49	0
4/04	3rd Reading Passed as Amended by House	47	1
4/04	Sent to Enrolling		
4/06	Returned from Enrolling		
4/06	Signed by President		
4/09	Signed by Speaker		
4/10	Transmitted to Governor		
4/20	Signed by Governor		
4/20	Chapter Number Assigned		
	Chapter Number 288		
	Effective Date: 10/01/2001 - All Sections		

SB 242 Introduced by O'Neil, et al. *LC0851 Drafter: Vandenbosch*

Prohibit Extraterritorial Building Codes -- Procedure for County Jurisdictional Area

1/12	Introduced		
1/13	First Reading		
1/13	Referred to Judiciary		
1/13	Fiscal Note Requested		
1/18	Fiscal Note Received		
1/19	Fiscal Note Signed		
1/20	Fiscal Note Printed		
2/02	Hearing		
2/06	Committee Executive Action--Bill Passed as Amended	8	1
2/06	Committee Report--Bill Passed as Amended		
2/08	2nd Reading Passed	44	5
2/09	3rd Reading Passed	45	4
	Transmitted to House		
3/01	Referred to Business and Labor		
3/19	Hearing		
3/29	Committee Executive Action--Bill Concurred as Amended	11	8
3/29	Committee Report--Bill Concurred as Amended		
3/30	2nd Reading Concurred	58	40
3/31	Revised Fiscal Note Requested		
3/31	3rd Reading Concurred	59	41
	Returned to Senate with Amendments		
4/04	2nd Reading House Amendments Not Concurred	28	20
4/06	Conference Committee Appointed		
4/06	Conference Committee Appointed		
4/09	Hearing		
4/10	Hearing		
4/10	Conference Committee Report Received		
4/10	Conference Committee Dissolved		
4/10	Free Conference Committee Appointed		
4/11	Free Conference Committee Report Received		
4/11	Free Conference Committee Report Received		
4/11	Conference Committee Dissolved		
4/11	Free Conference Committee Appointed		
4/12	2nd Reading Free Conference Committee Report Rejected on Voice Vote	49	0
4/17	Free Conference Committee Appointed		
4/17	Free Conference Committee Appointed		
4/18	Hearing		
4/19	Free Conference Committee Report Received		
4/19	Free Conference Committee Report Received		
4/20	Revised Fiscal Note Received		
4/20	2nd Reading Free Conference Committee Report Adopted	54	46
4/20	2nd Reading Free Conference Committee Report Adopted	25	23
4/21	Revised Fiscal Note Printed		

SENATE

LOCAL GOVERNMENT

CHAIR: Mahlum, Dale **VICE CHAIR: Bohlinger, John**

MEMBERS:

Christiaens, Chris	**Cobb, John**
Elliott, Jim	**Glaser, Bill**
Grimes, Duane	**Hargrove, Don**
Miller, Ken	**Stonington, Emily**
Toole, Ken	

SECRETARY: Wells, Mary Gay

LEGISLATIVE STAFF: Kurtz, Leanne

SB 216 SPONSOR: Berry, Dale SHORT TITLE: Full cost accounting for municipal solid waste programs
REFERRED ON: 01/09/2001 HEARD ON: 02/08/2001
EXECUTIVE ACTION: 02/19/2001 -Bill Passed as Amended -- VOTE: 7 - 4
FINAL DISPOSITION: 02/23/2001 (S) Missed Deadline for General Bill Transmittal

SB 226 SPONSOR: Wells, Jack SHORT TITLE: Modify statute on use of names for mailing list
REFERRED ON: 01/10/2001 HEARD ON: 02/06/2001
EXECUTIVE ACTION: 02/19/2001 -Bill Passed as Amended -- VOTE: 10 - 1
FINAL DISPOSITION: 04/21/2001 Chapter Number Assigned

SB 241 SPONSOR: Wells, Jack SHORT TITLE: Revise zoning district laws
REFERRED ON: 01/13/2001 HEARD ON: 02/06/2001
EXECUTIVE ACTION: 02/09/2001 -Bill Passed as Amended -- VOTE: 11 - 0
FINAL DISPOSITION: 04/20/2001 Chapter Number Assigned

SB 249 SPONSOR: Toole, Ken SHORT TITLE: Locate state agency office space downtown
REFERRED ON: 01/13/2001 HEARD ON: 02/01/2001
EXECUTIVE ACTION: 02/09/2001 -Bill Passed as Amended -- VOTE: 11 - 0
FINAL DISPOSITION: 04/26/2001 (H) Died in Process

SB 265 SPONSOR: Hargrove, Don SHORT TITLE: Authorize temporary county mill levy reductions
REFERRED ON: 01/17/2001 HEARD ON: 02/08/2001
EXECUTIVE ACTION: 02/09/2001 -Bill Passed -- VOTE: 11 - 0
FINAL DISPOSITION: 04/23/2001 Chapter Number Assigned

SB 278 SPONSOR: Berry, Dale SHORT TITLE: Remove city's authority to ban competition from private garbage providers
REFERRED ON: 01/18/2001 HEARD ON: 02/06/2001
EXECUTIVE ACTION: 02/19/2001 -Bill Passed as Amended -- VOTE: 7 - 4
FINAL DISPOSITION: 02/23/2001 (S) Missed Deadline for General Bill Transmittal

SB 287 SPONSOR: Stonington, Emily SHORT TITLE: Revise subdivision exemption for family transfer
REFERRED ON: 01/20/2001 HEARD ON: 02/13/2001
EXECUTIVE ACTION: 02/19/2001 -Bill Passed as Amended -- VOTE: 6 - 5
FINAL DISPOSITION: 02/23/2001 (S) Missed Deadline for General Bill Transmittal

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN DALE MAHLUM**, on February 8, 2001 at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:
Sen. Dale Mahlum, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. Jim Elliott (D)
Sen. Bill Glaser (R)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)
Sen. Ken Miller (R)
Sen. Emily Stonington (D)
Sen. Ken Toole (D)

Members Excused: Sen. John Cobb (R).

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 216, 2/6/2001
SB 265, 2/6/2001
HB 111, 2/6/2001

Executive Action: SB 210 DP; SB 265 DP
SB 66 DPAA; SB 144 DPAA
SB 187 DPAA; SB 190 DPAA
SB 241 DPAA; SB 249 DPAA
SB 206 TABLED

{Tape : 1; Side : A; Approx. Time Counter : 0}

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN DALE MAHLUM**, on February 6, 2001 at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. John Cobb (R)
Sen. Jim Elliott (D)
Sen. Bill Glaser (R)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)
Sen. Ken Miller (R)
Sen. Emily Stonington (D)
Sen. Ken Toole (D)

Members Excused: None.

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 226, 1/16/2001
SB 241, 1/16/2001
SB 278, 1/16/2001
HB 20, 1/16/2001

Executive Action: HB 20 DP; SB 73 DPAA;
SB 167 DPAA; SB 198 DPAA;
SB 71 Tabled; SB 72 Tabled;
SB 174 Tabled
SB 66 Taken off Table

{Tape : 1; Side : A; Approx. Time Counter : 0}

EXECUTIVE ACTION ON SB 167

Motion: **SEN. STONINGTON** moved that **SB 167 BE AMENDED EXHIBIT(8).**

Discussion: **SEN. STONINGTON** explained the amendments. In number one, wording is taken out because it is already in statute. Number three gives the department rule making authority about easements and covenants. In Section 2, notices are clarified. In Section 3, inspections are clarified. On page 6, line 18 there are two amendments that clarify timing of reviews. At the end of the bill, amendments 13 and 14 state that this law will be effective when the rules are done.

SEN. KEN TOOLE asked which of the amendments are addressing the concerns of the realtors. **SEN. STONINGTON** replied numbers 2, 3, 9, 13 and 14.

Vote: Motion that **AMENDMENT TO SB 167 BE ADOPTED carried unanimously.**

Motion/Vote: **SEN. STONINGTON** moved that **SB 167 DO PASS AS AMENDED. Motion carried 10-1 with Grimes voting no.**

HEARING ON SB 241

Sponsor: **SEN. JACK WELLS, SD 14, BOZEMAN**

Proponents: **Linda Stoll, MT Assoc. of Planners**
Betty Biggs, Springhill Zoning District, Bozeman
Mona Jamison, Representing Gallatin County
Jon Engen, Big Sky Owners Assoc.
Bill Arnold, Planning Director, Gallatin County
Jane Jelinski, MT Assoc. of Counties (MACO)
Jennifer Smith Mitchell, Gallatin Co. Commissioner
Byron Roberts, MT Building Industry Assoc.

Opponents: **Andy Skinner, Helena Property Owners Assoc.**

Opening Statement by Sponsor:

SEN. JACK WELLS, SD 14, BOZEMAN. Senate Bill 241 addressed the zoning systems in counties. The bill would make 101 zones similar to 201 zones. In statute, Title 76, where 101 zones are described, there is no provision for enforcement. In Bozeman there are more 101 zones than 201 zones. All 101 zones have been

formed by the citizens that live in those zones. They have discovered that if someone violates the provisions of the zoning laws, there is little recourse. In 201 zones, the law provides recourse. After listening to the commissioners in Bozeman and private citizens, the sponsor recognized that some provisions were needed to protect property rights. This bill would be that vehicle.

There was an amendment that should be considered **EXHIBIT(9)**. On page 2, line 1 of the bill, "residents of the" is taken out and inserted would be "citizen members, each of whom resides in a." The purpose was to clarify the number of members on the zoning commission. The desire was to have two citizen members added to zoning commission.

These zoning districts are established by the citizens who live there. There has to be at least forty acres involved in a district. A petition needs to be circulated requiring 60% of the residents in order to establish a zoning district. Surprisingly, the law is written saying that within thirty days of that action it could be cancelled by a petition signed by 50% of the residents. The county commissioners have sole authority to create these zones after the petitions are provided. But as of now, there is no provision for enforcement. Also, there is no provision in statute to have citizen members on zoning commissions. The bill would add two citizen members to the commission.

{Tape : 2; Side : B; Approx. Time Counter : 0}

Proponents' Testimony:

Linda Stoll, MT Assoc. of Planners. They support the bill and the amendment.

Betty Biggs, Springhill Zoning District, Bozeman. She gave her testimony and handed in the written copy **EXHIBIT(10)**.

Mona Jamison, Representing Gallatin County. People from all over with diverging views have come together to support this bill. Two kinds of zoning districts are already established in law. There are 201 zones created by the county and 101 zones which are driven by the residents. When the statute was passed allowing 101 zones, the enforcement provision was forgotten inadvertently. Without an enforcement provision, the law becomes moot. In the new Section 3, the language is basically the same as the 201 zoning district enforcement provision. The bill would allow for grassroots representation on the zoning commission. That only

makes good sense. The amendment clarifies what the bill was trying to do.

Jon Engen, Big Sky Owners Assoc. He gave his testimony and handed in a written copy **EXHIBIT(11)**. He handed in a letter from the Hebgen Lake Zoning Advisory Committee **EXHIBIT(12)**. Another letter came from David Klatt concerning his problem **EXHIBIT(13)**. The last letter was from Dee Rothschiller who is on the Big Sky Owners Assoc. and the Hebgen Lake Zoning Advisory Committee **EXHIBIT(14)**.

Bill Arnold, Planning Director, Gallatin County. This bill has proposed two straight forward things. It provides for citizen participation on planning and zoning commissions and provides for enforcement of the laws concerning 101 zoning. He supported the bill and the amendment.

Jane Jelinski, MT Assoc. of Counties. This is a great bill and they are supportive of the bill and the amendment.

Jennifer Smith Mitchell, Gallatin County Commissioner. The previous proponents have given the necessary points and she agrees. In her experience, it is the most frustrating thing to sit on a commission for an area that you don't live in. The 201 zoning districts have a board of adjustments. Those members must be residents of that area. Her zoning commission feels that lack and would like input from those who live in the zoning district. People come to the commission informing them of violations and the commission has to tell them "sorry" because they have no provisions to enforce those regulations. She supports the bill and the amendment.

Byron Roberts, MT Building Industry Assoc. They are in full support of the bill, especially adding resident members to the zoning commission.

Opponents' Testimony:

Andy Skinner, Helena Property Owners Assoc. The bill is supported mostly by government. Government is always trying to expand and their position on expansion of government is not good. If there is a need, so be it. The first part of this bill looks good. Residents should be on the zoning commissions. It irritates him when government says they can't enforce zoning. In Helena the county attorney files an action against violators. There was a building out in Kenwood that was 27 feet high. The regulations said only 24 feet was allowable. The front of the building had to be torn off because the county attorney filed an action against them. So there are rules to allow them to take

action. Section 3, enforcement of zoning provisions, was offensive to him. A whole new laundry list is included. Reviewing buildings that are altered has been the function of the state. If there is an electrical problem, there is a state inspector. The same is true for plumbing, etc. In Section 3, (2) it states: "The board of county commissioners may appoint enforcing officers to supervise and enforce the provisions of the zoning resolutions." This creates a new building department. In Lewis & Clark County, a comprehensive plan has just been established. One of the functions of this plan was they could create a building department. This is just another cost. There should be a fiscal note on this bill but he had not seen one. If a new building department is created in every county of the state, the costs are going to really go up. There are too many fees now. He asked the committee to stop the bill.

Questions from Committee Members and Responses:

SEN. DUANE GRIMES said that Gallatin County planning has been very helpful. He then asked why **Mona Jamison** felt that the enforcement portion had been left out of the 101 zoning laws inadvertently. Had she looked at the hearing minutes to see why that had not been included. **Ms. Jamison** had not gone back to look at the history. She felt that common sense would dictate the two zoning laws should be the same.

SEN. GRIMES posed the possibility that the law had been written as such because there were other remedies for rule. **Ms. Jamison** believed that the remedy would be that of homeowners' associations or individuals hiring private attorneys to file nuisance lawsuits. This bill does not address homeowners' covenants.

SEN. EMILY STONINGTON informed the committee that she lives in the Bridger Canyon zoning district and it has been a good experience. She had applied to the zoning commission to transfer a density right. She had two deeds. She wanted to build a barn with an apartment in it. The zoning district allowed only one housing unit per deed. She applied to have that housing unit put under the second deed. She wanted to know what kind of abuses or issues the planning commission is running into. **Bill Arnold** responded that 101 zoning districts vary in their regulations. Some may have transferrable development rights and some may not. Most districts are established where there are a set of outright uses and there may be uses that require special review uses or conditional use permits. Your district may have the conditional use permit requirement.

SEN. STONINGTON said that outright uses that don't need any permit are sometimes stipulated in the district and sometimes not. **Mr. Arnold** explained that other conditional use procedures that go through a review with planning and zoning commissions typically have conditions that are applied to those. It would also be a violation if they didn't comply with one or more of the conditions. If a house turns into a bed and breakfast, and they did not go through the review, that would be a violation.

Closing by Sponsor:

SEN. WELLS closed. He appreciated **Mr. Andy Skinner's** position as he, himself, does not like to be proposing more government. One rationale is that the bill does not make standards or strict requirements across the state. The zoning commissions can pick their own criteria. Perhaps in Gallatin County the county attorney is not as forceful. Apparently in Helena they have been able to get their attorney's assistance. There is a fiscal note but there is no impact. He stated that if the county government would create new planners and directors and start raising taxes, he will be up next session to get rid of this bill.

{Tape : 3; Side : A; Approx. Time Counter : 0; Comments : The tape was turned in the middle of Sen. Wells' closing.}

HEARING ON SB 226

Sponsor: **SEN. JACK WELLS, SD 14, BOZEMAN**

Proponents: **None**

Opponents: **None**

Informational Answers: **Mike O'Connor, Executive Director, Public Employees Retirement System (PERS)**

Opening Statement by Sponsor:

SEN. JACK WELLS, SD 14, BOZEMAN. Senate Bill 226 is an interesting bill. He sponsored the bill for some of his former military colleagues. Military recruiters would like to get the names of high school graduates in order to send them material on joining the military and at the same time offer some scholarships, training programs, etc. The high schools go to this section of statute 2-6-109 and say by virtue of that statute they could not give out that list. At first he thought an

Vote: Motion that **SB 190 AMENDMENT BE ADOPTED carried 10-1 with Elliott voting no.**

Motion/Vote: **SEN. COBB** moved that **SB 190 DO PASS AS AMENDED. Motion carried 10-1 with Elliott voting no.**

EXECUTIVE ACTION ON SB 187

Motion: **SEN. COBB** moved that **SB 187 BE AMENDED EXHIBIT(14).**

Discussion:

SEN. JOHN COBB explained the amendments. There was a question between the newspapers and MACO whether websites should be included. They agreed to take that out. There was one technical correction about not being called 2nd class on page 1, line 30. It states the newspaper must be a general paid circulation of a 2nd class mailing permit. That is supposed to be "periodical" not "2nd class.

Vote: Motion that **SB 187 AMENDMENT BE ADOPTED carried unanimously.**

Motion/Vote: **SEN. COBB** moved that **SB 187 DO PASS AS AMENDED. Motion carried unanimously.**

EXECUTIVE ACTION ON SB 206

Motion/Vote: **SEN. COBB** moved that **SB 206 BE TABLED. Motion carried 10-1 with Mahlum voting no.**

EXECUTIVE ACTION ON SB 241

Motion: **SEN. COBB** moved that **SB 241 BE AMENDED EXHIBIT(15).**

Discussion:

SEN. COBB explained the amendment. "The Board of County Commissioners may appoint enforcing officers to supervise and

enforce the provisions of the zoning resolution" is being taken out. It was a 1950's law that didn't need to be in statute any longer. Another part of the amendment included citizen members from the zoning area to be included on the zoning commission.

Vote: Motion that **SB 241 AMENDMENT BE ADOPTED carried unanimously.**

Motion/Vote: **SEN. COBB** moved that **SB 241 DO PASS AS AMENDED. Motion carried unanimously.**

EXECUTIVE ACTION ON SB 249

Motion: **SEN. TOOLE** moved that **SB 249 BE AMENDED EXHIBIT(16).**

Discussion:

SEN. TOOLE explained that he felt the fiscal note was very high and did not agree with it. Amendment three would say that any additional costs that would be incurred would be included in the rental rates. Amendment four states the department would annually compile and publish a report of space leased in the state and what was not located in downtown areas. The excluded departments are those that would not work well if located downtown due to their type of work.

CHAIRMAN MAHLUM felt the hearing was good and that it was a fairly good bill. There had been many proponents.

Vote: Motion that **SB 249 AMENDMENT BE ADOPTED carried unanimously.**

Motion/Vote: **SEN. TOOLE** moved that **SB 249 DO PASS AS AMENDED. Motion carried unanimously.**

EXECUTIVE ACTION ON SB 66

Motion: **SEN. HARGROVE** moved that **SB 66 BE AMENDED EXHIBIT(17).**

Discussion:

SEN. JOHN BOHLINGER realized that there had been some serious questions that needed a response. Jani McCall had prepared some facts for the committee **EXHIBIT(18).** One question was how many

HOUSE

LOCAL GOVERNMENT

CHAIR: Noennig, Mark

VICE CHAIR: Bitney, Rod
Mangan, Jeff

MEMBERS:

Andersen, Joan	Carney, Eileen
Cyr, Larry	Esp, John
Himmelberger, Dennis	Jacobson, Hal
Laible, Rick	Laslovich, Jesse
Lawson, Bob	Lee, Michelle
Newman, Brad	Peterson, Ken
Price, William	Whitaker, James
Younkin, Cindy	

SECRETARY: O'Reilly, Pati

LEGISLATIVE STAFF: McClure, Eddye

SB 210 SPONSOR: Waterman, Mignon SHORT TITLE: Revise retirement for county hospital and rest home employees
REFERRED ON: 03/01/2001
FINAL DISPOSITION: 04/20/2001 Chapter Number Assigned

SB 226 SPONSOR: Wells, Jack SHORT TITLE: Modify statute on use of names for mailing list
REFERRED ON: 03/03/2001
FINAL DISPOSITION: 04/21/2001 Chapter Number Assigned

SB 241 SPONSOR: Wells, Jack SHORT TITLE: Revise zoning district laws
REFERRED ON: 03/01/2001 HEARD ON: 03/22/2001
EXECUTIVE ACTION: 03/28/2001 - Bill Concurred as Amended -- VOTE: 18 - 0
FINAL DISPOSITION: 04/20/2001 Chapter Number Assigned

SB 265 SPONSOR: Hargrove, Don SHORT TITLE: Authorize temporary county mill levy reductions
REFERRED ON: 03/01/2001 HEARD ON: 03/13/2001
EXECUTIVE ACTION: 03/14/2001 - Bill Concurred -- VOTE: 17 - 0
FINAL DISPOSITION: 04/23/2001 Chapter Number Assigned

SB 333 SPONSOR: Beck, Tom SHORT TITLE: Remove prison ranch PILT sunset
REFERRED ON: 03/03/2001 HEARD ON: 03/27/2001
EXECUTIVE ACTION: 03/28/2001 - Bill Concurred -- VOTE: 18 - 0
FINAL DISPOSITION: 04/23/2001 Chapter Number Assigned

SB 359 SPONSOR: Halligan, Mike SHORT TITLE: Allow city or town to create annexation district outside the city or town
REFERRED ON: 03/03/2001 HEARD ON: 03/22/2001
EXECUTIVE ACTION: 03/23/2001 - Bill Concurred as Amended -- VOTE: 15 - 3
FINAL DISPOSITION: 04/21/2001 Chapter Number Assigned

SB 368 SPONSOR: Shea, Debbie SHORT TITLE: Clarify law on mortgage filing - incorporation of other filings
REFERRED ON: 03/03/2001
FINAL DISPOSITION: 04/28/2001 Chapter Number Assigned

SB 402 SPONSOR: Shea, Debbie SHORT TITLE: Require certain contractors provide health insurance policy for employees
REFERRED ON: 03/03/2001
FINAL DISPOSITION: 04/26/2001 (H) Died in Standing Committee

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK NOENNIG**, on March 22, 2001 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Mark Noennig, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Jeff Mangan, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. John Esp (R)
Rep. Dennis Himmelberger (R)
Rep. Hal Jacobson (D)
Rep. Rick Laible (R)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Ken Peterson (R)
Rep. William Price (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. James Whitaker (R)

Members Absent: None.

Staff Present: Eddye McClure, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 429; SB 359; SB 241; 3/19/01
Executive Action: SB 198; SB 427; SB 359

Closing by Sponsor: **Sen. Halligan** closed. *{Tape : 3; Side : A; Approx. Time Counter : 4.1 - 6.2}*

HEARING ON SB 241

Sponsor: **Senator Jack Wells, SD 14**

Proponents: Mona Jamison, Gallatin County
Wm. Armold, Gallatin County Planning Director
Betty Biggs, Spring Hills Area
John Vincent, Gallatin County Commissioner

Opponents: None

Opening Statement by Sponsor: **Sen. Wells** introduced SB 241 which deals with zoning districts. Currently there are two types of zoning districts. SB 241 would the regulations and allow one type zoning district. The bill would also change the structure of the zoning committee and add enforcement capabilities. *{Tape : 3; Side : A; Approx. Time Counter : 6.2 - 9.9}*

Proponents' Testimony: **Mona Jamison, Gallatin County,** explained the event that triggered this bill and the changes being made. **EXHIBIT(5)** *{Tape : 3; Side : A; Approx. Time Counter : 9.9 - 15.8}*

Bill Armold, Gallatin County Planning Director. This is a simple bill that addresses the creation of zoning districts. *{Tape : 3; Side : A; Approx. Time Counter : 15.8 - 19.6}*

Betty Biggs, Spring Hills Resident. We support this bill. *{Tape : 3; Side : A; Approx. Time Counter : 19.6 - 23.5}*

John Vincent, Gallatin County Commissioner, Gallatin County requested this bill and we give it our full support. *{Tape : 3; Side : A; Approx. Time Counter : 23.5 - 28.4}*

Opponents' Testimony: None

Questions from Committee Members and Responses: **Rep. Lawson: Mona Jamison,** what is the term lengths for zoning committee members? **Bill Armold,** there are no citizens on the committee at this time. The new committee would set the length of terms. **Rep. Lawson:** My concern is that the county commissioners could stack the board in favor of the commissioners. **Rep. Esp:** Could we amend this bill to allow for citizen participation? **Bill Armold,** yes, the structure of the committee and appointing authority could be amended. *{Tape : 3; Side : B; Approx. Time Counter : 0 - 7.9}*

Closing by Sponsor: **Sen. Wells** closed and recognized that **Rep. Lawson** had some legitimate concerns that needs to be addressed. *{Tape : 3; Side : B; Approx. Time Counter : 7.9 - 11.5}*

EXECUTIVE ACTION ON SB 198

Motion: **REP. PETERSON** moved that **SB 198 BE CONCURRED IN.**

Motion/Vote: **REP. NOENNIG** moved that **SB 198 BE AMENDED** with **AMENDMENT NO. 19801. Motion carried 12-6 with Cyr, Esp, Himmelberger, Lee, Mangan, and Newman voting no. EXHIBIT(6)**

Motion: **REP. PETERSON** moved that **SB 198 BE CONCURRED IN AS AMENDED.**

Motion: **REP. NOENNIG** moved that **SB 198 BE AMENDED** with **AMENDMENT #19807. EXHIBIT(7)**

Motion: **REP. ESP** moved that **AMENDMENTS #19807** segregated into No. 1 and No. 2. Vote: Motion **AMENDMENTS NO. 1 carried unanimously.** Vote: Motion **AMENDMENT #2 failed 9-9 with Andersen, Bitney, Cyr, Laible, Lee, Noennig, Peterson, Price, and Younkin voting aye.**

Motion: **REP. LEE** moved that **SB 198 AMENDMENT # 19805 BE AMENDED.** This amendment added in sidewalks.

Substitute Motion/Vote: **REP. LEE** made a Substitute Motion that **SB 198 BE AMENDED to remove everything after the word MAINTENANCE. Substitute motion carried 11-7 with Andersen, Bitney, Esp, Himmelberger, Laible, Peterson, and Price voting no**

Motion: **REP. LEE** moved that **HB 198 BE CONCURRED IN AS AMENDED. EXHIBIT(8)**

Motion/Vote: **REP. MANGAN** moved that **SB 198 BE AMENDED-AMENDMENT 19803. Motion carried unanimously. EXHIBIT(9)**

Motion: **REP. LEE** moved that **SB 198 BE CONCURRED IN AS AMENDED.**

Substitute Motion/Vote: **REP. WHITAKER** made a substitute motion that **SB 198 BE TABLED. Substitute motion carried 17-1 with Lawson voting no.** *{Tape : 3; Side : B; Approx. Time Counter : 11.5 - 30}{Tape : 4; Side : A; Approx. Time Counter : 0 - 30}*

EXECUTIVE ACTION ON SB 427

Motion: **REP. ESP** moved that **SB 427 BE CONCURRED IN.**

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK NOENNIG**, on March 27, 2001 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Mark Noennig, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Jeff Mangan, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. John Esp (R)
Rep. Dennis Himmelberger (R)
Rep. Hal Jacobson (D)
Rep. Rick Laible (R)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Ken Peterson (R)
Rep. William Price (R)
Rep. James Whitaker (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: Eddye McClure, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 138, SB 407, SB 333
3/21/01, 3/31/2001
Executive Action: SB 333, SB 407, SB 138,SB 241

EXECUTIVE ACTION ON SB 241

Motion: REP. JACOBSON moved that SB 241 BE CONCURRED IN.

Motion/Vote: REP. LAWSON moved that SB 241 BE AMENDED. Motion carried unanimously. EXHIBIT(7)

Motion/Vote: REP. YOUNKIN moved that SB 241 BE CONCURRED IN AS AMENDED. Motion carried unanimously. *{Tape : 2; Side : B; Approx. Time Counter : 0 - 3.5}*

Senate Local Govt. Comm.
Exhibit No. 9
Date 2-6-01
Bill No. SB 241

Amendments to Senate Bill No. 241
1st Reading Copy

Requested by Senator Jack Wells

For the Senate Local Government Committee

Prepared by Leanne Kurtz
February 2, 2001 (1:17PM)

1. Page 2, line 1.
Strike: "residents of the"
Insert: "citizen members, each of whom resides in a"

- END -

Senate Local Govt. Comm.
Exhibit No. 10
Date 2-6-01
Bill No. SB 241

FEBRUARY 6, 2001
TO: Legislative Committe, 57th Session, State of Montana
RE: Legislative Proposal of Callatin County
LC 388-101 ZONING
SB-241
FROM: Betty J. Biggs, spokesperson from Springhill Zoning District, Gallatin County

I come before this committie today speaking on behalf of the residents of the Springhill Community. Springhill, which is located in a beautiful area of Gallatin Vallley established a Zoning Plan several years ago from a "grass-roots
effort which took over two years of study, including study of topography, soils, watershed, viewshed, and economic and community needs.

Recognizing that by placing our properties within the bounds of a Zoning Plan, we have relinquished certain freedoms, it is important to us in the zoned community to retain as much of a representation from our level as
is viably possible.

Therefore, a cross-section survey of the residents of Springhill Zoning has been made, and the consensus of the
residents is as follows:

ISSUE 1....The Planning and Zoning Commission should have representation by citizen members by the district

.

Due to the fact that these planning and zoning districts are initiated by the citizens themselves, due to an expressed need for land use planning and zoning, it should follow that the citizens within the district should
have representation on the body that reviews planning and zoning amendments.

Further, by consensus, it is suggested that there be two members from each zoning district to serve on the committee, AND THAT THESE MEMBERS BE CHOSEN UNILATERALY BY THE LANDOWNER CITIZENS
OF THE DISTRICT FOR WHICH THEY SHALL SERVE AND THE TERMS BE FOR A TWO YEAR PERIOD.

(Logistics for either election or appointment by petition forthcoming)

(Note) It was generally felt that position by appointment would not be as effective and may possibly not give a fairness in representation for the distric

ISSUE 2.....The Planning and Zoning should be enforced within the paramaters of the written ordinance without personal vendettas or personal friendships coming into play; therefore the consensus was that if an overview committee elected from the community acted as an "overview committee" to review new activities within the
district , using the zoning stipulations as their guide, many problems could be averted at a local level in a sensible and amiable way.

Therefore, by consensus it is the recommendation from the Springhill Zoning District that both of these issues be taken to the Senate for Positive approval.

THANK YOU,
Respectively Submitted,

Betty J. Biggs

Betty J. Biggs
8370 Forswall Rd.
Belgrade, MT 59714
406-586-6460

Senate Local Govt. Comm.
Exhibit No. 11
Date 2-6-01
Bill No. SB 241

Big Sky Architectural Committee

P.O. Box 160057 BIG SKY, MONTANA 59716
PHONE (406) 995-4166 FAX (406) 995-4899 bsoa_b@montana.net

Summary of Testimony for Montana SB 241, February 6th, 2001

By: Jon R. Engen, P.E., Architectural Review Coordinator/Covenant Enforcement, Big Sky Architectural Committee/Big Sky Owners Association, Big Sky, Montana.

For: Senate Bill No. 241, Amendments to Sections 76-2-101 and 76-2-102, February 6th, 2001.

Relevant to:

Section 1: (1) We support Property Owners' opportunity to create Planning and Zoning Districts.

(5) Regarding elimination of a Planning and Zoning District based on opposition from 50% of titled property ownership within 30 days..... Can language be formulated to prevent abuses by powerful special interest groups or individuals?

Section 2: (1) We support the two (2) additional members be local representatives, preferably elected.

Section 3: (1) Enforcement of Zoning Provisions.

By establishing a Planning and Zoning District, or locating in an existing one, people seek or accept:

- Regulated land use, planned neighborhoods and architectural control.
- Controlled community access, egress and safety.
- Regulated signage and equal business opportunity.
- Environmental, agricultural and viewshed protection.
- Enhancement of property values and quality of life.

Enforcement is essential in the management of these values. Property Owners pay for Land Use Permits, often a hefty sum in material or conceptual terms. They deserve a service in return, such as enforcement of the laws they comply with.

The lack of enforcement places unreasonable burdens on private citizens. Property Owners Associations are private service organizations for a membership having limited powers. Such powers include letter writing to inform violators, administering fines or construction bonds in amounts potentially negligible or immaterial to real and lasting damages, and finally undesirable civil litigation.

Counties are part of the Government; they are normally assigned with the duties of Law Enforcement, and have excellent models for such functions in place.

Senate Local Govt. Comm.
Exhibit No. 12
Date 2-6-01
Bill No. SB 241

January 5, 2001

Local Government Committee
Montana State Legislature
Helena MT

Dear Members:

The members of the Hebgen Lake Zoning Advisory Committee would like to ask your approval of a new section to 76-2-101, MCA.

The most frustrating part of our zoning is the lack of enforcement. Time and time again violations are not stopped because of a lack of enforceability. The county has said there are no provisions in the law that allow them to do the necessary legal procedures. Places are rented out as motel rooms in single family dwellings; homes are not put on permanent foundations; highway signs are put out against the regulations; businesses are run out of residential areas, land use permits are not obtained. The list can go on and on.

It seems the zoning regulations are set up for those that follow the rules but not those that disregard them.

We would appreciate your help on this matter.

Sincerely;

David C. Klatt
Chairman: Hebgen Lake Zoning Advisory Committee

DAVID KLATT
JIM MICKLEWRIGHT
BOB LINDSTROM
LINDA BLANK
DEE ROTHSCHILLER

Senate Local Govt. Comm.
Exhibit No. 13
Date 2-6-01
Bill No. SB 241

January 5, 2001

Local Government Committee
Montana State Legislature
Helena, MT

Dear Members:

I would like to ask for your support of the change to 76-2-101, MCA.

The discussion of the law under Issue 2 regarding the enforceability of the zoning regulations is exactly right. We were in a group of people that had to go all the way to the State Supreme Court to enforce rules that should have been done at the county planning level.

The county allowed for temporary structures without foundations to be in our subdivision against our covenants. They said that they couldn't do anything. We had no homeowners association and had to do this as individuals. Five years, many dollars and many hard feelings later it was over; successfully.

In section 2 concerning the two residents to be added to the zoning commission: I feel if this were to be added that they should be elected people. Otherwise there could be more problems created than fixed. I do feel that the five member commission is adequate.

Sincerely;

David C. Klatt
8225 Grayling Road
West Yellowstone, MT 59758

Senate Local Govt. Comm.
Exhibit No. 14
Date 2-6-01
Bill No. SB 241

DEE ROTHSCHILLER
P.O. BOX 160028
BIG SKY, MONTANA 59716
(406) 646-4716

February 6, 2001

Jack Wells
150 Coulee Drive
Bozeman, Montana 59718

RE: 101 Zoning Legislation/SB 241

Dear Jack,

Please read into the record my comments on SB 241. I am a resident of Horse Butte, located 10 miles northwest of West Yellowstone, Montana. I serve on the Hebgen Lake Zoning Advisory Committee and am the Administrative Assistant for the Big Sky Owners Association in Big Sky, Montana. These two positions have given me first hand experience in the frustrations of not having legal zoning enforcement available for the two large zoning districts that I am involved with.

The Hebgen Lake Zoning Advisory Committee sent a letter to the Gallatin Planning Department on June 18, 1996 requesting that action be taken on a list of 16 zoning violations within our district. One year later, July 17, 1997, the committee received a response stating that the Planning Department would investigate and determine which items were determined to be in violation of the zoning regulations. That was over 4 years ago and nothing has been done. Some of the violators are now long gone. On September 27, 1998 the committee sent a letter to the Planning Department requesting that they hire an enforcement officer to deal with violations within the Hebgen District, nothing has been done. Passage of SB 241 would not only provide for funding of an enforcement officer but the legal means to enforce the provisions of our zoning regulations.

Our committee members have taken an oath of office to protect the integrity of the district we serve. Most of the land owners abide by the regulations adopted to further the health, safety and general welfare of the zoning district. It is the few that do not follow the rules that we need help with. Why have zoning if there is no legal means to enforce the regulations? Give our volunteers and planning departments the help they need. Please vote for zoning legislation SB 241.

Sincerely,

Dee Rothschiller

Dee Rothschiller
Committee Member, Staff Member and Property Owner

Senate Local Govt. Comm.
Exhibit No. 15
Date 2-6-01
Bill No. SB 66

Amendments to Senate Bill No. 66
1st Reading Copy

Requested by Senator John Bohlinger

For the Senate Local Government Committee

Prepared by Gregory Petesch
February 12, 2001 (12:36PM)

1. Title, line 4.
Strike: "PROVIDING"
Insert: "PHASING IN A REQUIREMENT"

2. Title, line 5.
Strike: "95 PERCENT"
Insert: "A PERCENTAGE"

3. Title, lines 7 and 8.
Following: ";" on line 7
Insert: "REVISING THE METHOD FOR CHANGING FROM A PART-TIME TO A FULL-TIME COUNTY ATTORNEY;"
Strike: "7-4-2505,"
Insert: "7-4-2706, AND"
Following: "7-6-2426,"
Strike: remainder of line 7 through "46-18-236," on line 8

4. Page 1, line 19.
Strike: "from the state treasury upon the warrant of the state treasurer"
Insert: "as provided in 7-4-2503"

5. Page 3, line 3.
Following: "(a)"
Insert: "(i)"

6. Page 3, line 4.
Strike: "95%"
Insert: "the applicable percentage"

7. Page 3, line 5.
Following: "."

Insert: "The county attorney's salary is a percentage of the district court judge's salary as follows:

(A) 80% beginning July 1, 2002, with 50% of that amount paid by the state;

(B) 85% beginning July 1, 2003, with 60% of that amount paid by the state;

(C) 95% beginning July 1, 2004, with 95% of that amount paid by the state.

(ii)"

8. Page 3, line 11.
Following: line 10
Insert: "(b) The salary of a county attorney holding office on June 30, 2002, may not be reduced under subsection (3)(a), but future longevity increments may not be added to the salary. If a county attorney's salary is in excess of the amount provided for in subsection (3)(a), the county attorney must continue to receive that salary and the state shall pay the state's percentage of that salary for the applicable fiscal year. The county is responsible for the payment of health insurance benefits for county attorneys."
Renumber: subsequent subsections

9. Page 5, line 11.
Following: "(a)"
Insert: "(i)"

10. Page 5, line 12.
Strike: "95%"
Insert: "the applicable percentage"

11. Page 5, line 13.
Following: "."
Insert: "The county attorney's salary is a percentage of the district court judge's salary as follows:

(A) 80% beginning July 1, 2002, with 50% of that amount paid by the state;

(B) 85% beginning July 1, 2003, with 60% of that amount paid by the state;

(C) 95% beginning July 1, 2004, with 95% of that amount paid by the state.

(ii)"

12. Page 5, line 19.
Following: line 18
Insert: "(b) The salary of a county attorney holding office on June 30, 2002, may not be reduced under subsection (3)(a), but future longevity increments may not be added to the salary. If a county attorney's salary is in excess of the amount provided for in subsection (3)(a), the county attorney must continue to receive that salary and the state shall pay the state's percentage of that salary for the applicable fiscal year. The county is responsible for the payment of health insurance benefits for county attorneys."
Renumber: subsequent subsections

13. Page 7, line 11.
Strike: "(c)(i)"
Insert: "(d)(i)"

14. Page 7, line 18 through page 8, line 3.
Strike: section 4 in its entirety
Insert: **"Section 4.** Section 7-4-2706, MCA, is amended to read:
"7-4-2706. County attorney to be full or part time -- resolution -- salary. (1) In any county with a population of less than 30,000, the county commissioners may, upon the consent of the county attorney and the approval of the attorney general, on July 1 of any year by resolution establish the office of county attorney as a full-time position subject to the provisions of 7-4-2701 and 7-4-2704. The salary for this position is the salary provided by 7-4-2503 for the office of county attorney in a county with a population in excess of 30,000.
(2) In any county in which the office of county attorney has been established as a full-time position under subsection (1), the county commissioners may, by resolution and upon the consent of the county attorney, establish the office as a part-time position on July 1 of any year."
{*Internal References to 7-4-2706:*
7-4-2503 7-4-2503 }"

15. Page 8, line 8.
Following: "~~and~~"
Insert: "the appropriate percentage of the salary of the county attorney and"

16. Page 8, line 23 through page 11, line 21.

Strike: section 6 in its entirety
Renumber: subsequent section

- END -